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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,517	09/30/2003	Il Dong Kim	P69200US0	1668

7590

06/01/2005

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WASHINGTON, DC 20004

EXAMINER

NERBUN, PETER P

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/673,517	Applicant(s) KIM, IL DONG	
	Examiner Peter P. Nerbun	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4,7-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho (U.S.P. 6,067,658) in view of Trakh (U.S.P. 6,000,062). The patent to Cho (658) discloses a baseball-style cap with a flexible headband comprising a crown main body "C", Fig. 2 having a plurality of panels 1,2, etc., a visor portion "A" secured to a forward portion of said peripheral edge of said crown main body and extending outwardly therefrom, a head band "B" sewn along said lower peripheral edge of said crown main body. To construct the headwear of Cho with a headband being made of 100% nylon yarn as suggested by Trakh (see col. 2, lines 27-30) would have been obvious since a headband made from this material would provide better cushioning to protect the wearer from impact by a ball used in sporting activity. With regard to the recitation in claim 1 that the nylon yarn is a "nylon combustible yarn", it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a nylon yarn that is a "nylon combustible yarn", since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Nylon combustible yarn is a well known material as seen, for example, in the Schmidt patent (U.S.P. 5,641,560). See claim 1, lines 1-3; claim 2, lines 1-4; and claim 10, lines 1-2 of U.S.P. 5,641,560).

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Claims 3,6,10-12,14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho (U.S.P. 6,067,658) in view Trakh and Cho (U.S.P. 5,715,540). To utilize yarn in the headband of the formed Cho (658) headwear that has a napped structure as suggested by Cho (U.S.P. 5,715,540) would have been obvious since this material would be more comfortable when worn by the wearer.

Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho (U.S.P. 6,067,658) in view of Trakh and Park (U.S.P. 6,715,154). To construct the headband of the formed Cho (658) headwear such that it is two-ply as suggested by Park (at 3, Fig. 1) would have been obvious since a headband having two plies would be more durable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter P. Nerbun whose telephone number is 571-272-4992. The examiner can normally be reached on M-F (1st Week) M-Th (2d Week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Nerbun
May 24, 2005

A handwritten signature in black ink that reads "Peter Nerbun". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Peter Nerbun
Primary Examiner